



# 2010 Finance Law Changes

Revenue Laws  
Study Committee  
November 10, 2010

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Research Division,  
NC General Assembly*

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# 2010 Revenue Laws

## Recommendations - Enacted

- ✓ IRC Update
- ✓ Modernize Sales Tax on Accommodations
- ✓ Modernize Admissions Tax & Restore Amenities Exclusion
- ✓ Give Taxpayers Notice of Revised Interpretations
- ✓ Improve Tax & Debt Collection Process
- ✓ Construction of Wills & Trusts
- ✓ Economic Incentives Alignment & Changes
- ✓ Technical, Clarifying, & Administrative Changes (included Annual Reports for LLCs)

# Overview

- Small Business Relief
- Economic Incentives
- Renewable Energy
- Sales/Admissions Tax Changes
- Tax Administration
- Other Changes

# Small Business Relief

- Unemployment Insurance Refundable Tax Credit
- Extension of 5-year Carryback Period for NOLs
- Lower Sales Tax Compliance Burden on Small Retailers
- Relieve Annual Report Compliance Burden on Small Business



# Unemployment Insurance Tax Credit



# Unemployment Insurance Tax Credit

- Refundable income tax credit = 25% of the amount paid in unemployment insurance tax on wages paid to employees.
- Available to businesses with gross receipts of  $\leq \$1\text{M}$  for the taxable year; could potentially benefit up to 125,000 businesses.
- Temporary credit - applies to 2010 and 2011 taxable years only.
- GF loss for FY 2010-2011 = \$34.1 M.

# IRC Update

- Updates the Code reference to May 1, 2010.
- Extends increased expensing limits.
- Extends 5-year carryback period for NOLs for small business (<\$15M annual gross receipts).
- Does not conform to 5-year carryback for NOLs incurred by large businesses.
- GF loss of \$7.7M in FY 10-11 and \$1M in FY 11-12; will reach \$10M in FY 13-14.





# Lower Sales Tax Compliance Burden

- Increases the threshold for requiring retailers to submit a pre-payment of 65% of the amount of sales tax revenue to be remitted for the following month.
- GF loss of \$7M in FY 10-11 and \$12 M in FY 11-12.
- **10/1/2010:** From \$10,000 to \$15,000, relieving 2,133 retailers from the pre-payment requirement.
- **10/1/2011:** From \$15,000 to \$20,000, relieving an additional 1,000+ retailers.



# Relieve Annual Report Compliance Burden

- Provides that the first annual report of a LLC is due April 15 following its year of organization.
- Also conforms due date for filing annual reports to the due date for filing corporate income tax returns.

# Economic Incentives



- Datacenters
- Film Industry
- Interactive Digital Media Industry
- Eco-Industrial Parks
- Sales Tax Refunds
- Sunset Extensions

Big Data = Big Business

Google



DELL™

amazon.com®

intuit®



YAHOO!®



# Best Investment Ever



Purchase Price (1976):	\$6,000
Sale Price (2010):	\$1,700,000

## Internet Datacenters

- **Expanded sales tax exemption** for electricity and business property to include Internet datacenter engaged in software publishing.

## Datacenters

- **Extended sunset** on 1% excise tax for datacenters on purchases on M&E through 7/1/2015.
- **Modified investment threshold** to qualify for 1% excise tax by allowing threshold to be met through construction of 2 facilities.
- **Provided contractors with option** to elect to pay 1% excise tax rather than sales tax on purchases of M&E.

# Modified Apportionment Formula

- Allows Sec. of Revenue to apply written decision granting corporation request for an alternative apportionment formula for 15 years instead of 3 years.
- Time limited; corporation must have submitted letter of commitment by September 15, 2010.
- Microsoft was considering locating a datacenter in NC, but announced on August 27, 2010 that it was locating in Virginia.



# Lights... Camera...Incentives!





# Film Incentives

- Increased credit from 15% to 25% and eliminated alternative credit.
- Increased cap from \$7.5M to \$20M.
- No add back required when computing NC taxable income.
- Expanded “qualifying expenses” to include employee fringe contributions , per diems, stipends, and living allowances.
- Clarified that purchases of cameras, film, props, building materials, and chemicals used to develop and edit film do not qualify for 1% privilege tax.



# Interactive Digital Media

- New credit = to % of taxpayer's expenses paid in developing the media, platform, or engine that exceeds \$50,000.
  - 20% for expenses paid to a “participating community college” or to a research university.
  - 15% for all other allowable expenses.



# Eco-Industrial Parks



- Has at least 100 developable acres.
- Located in a county that is not subject to motor vehicles emissions inspections.
- Each building meets certain energy-efficiency and water usage standards.
- Each business in the park is in a “clean industry.”

# Eco-Industrial Park Incentives

- A development tier one designation.
- Priority for selection for grants under JDIG and NC Green Business Fund.
- No cap or matching fund requirement.
- Increased cap of \$5M for tax credit for installation of renewable energy property in nonresidential property.
- Increased credit amount of 35% for qualified research expenses.

# Sales Tax Refunds

**Paper-from-pulp  
manufacturing**



**Turbine  
Manufacturing**



# Sunset Extensions

- Article 3J – from 1/1/2011 to 1/1/2013
- Oyster Shell Recycling – from 1/1/2011 to 1/1/2013
- Mill Rehabilitation – from 1/1/2011 to 1/1/2014
- Qualified Business Ventures – 1/1/2011 to 1/1/2013
- Passenger Air Carriers Sales Tax Refund – 1/1/2011 to 1/1/2013
- Motorsports Aviation Fuel Sales Tax Refund – 1/1/2011 to 1/1/2013

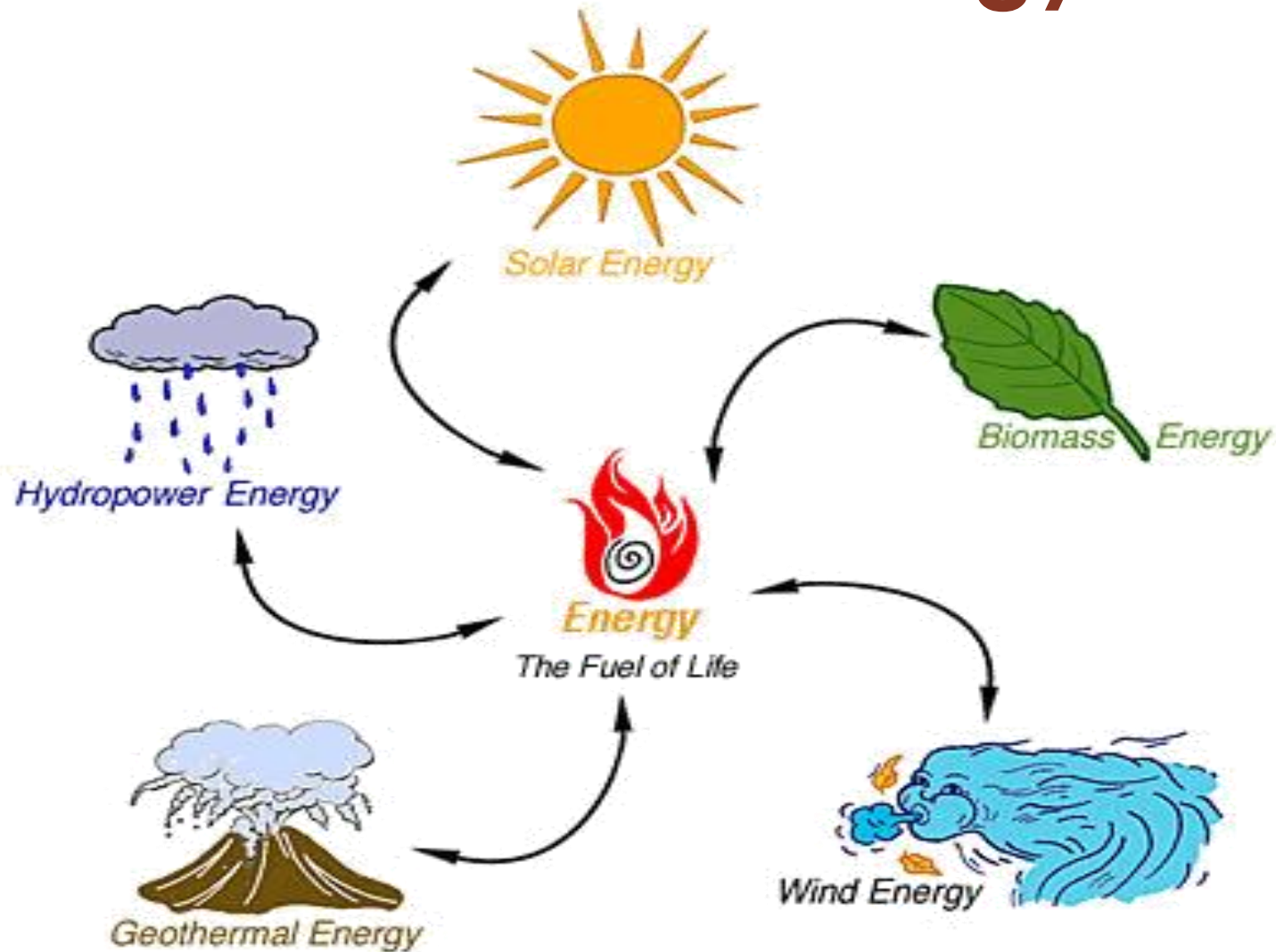
# Economic Incentive Alignment



- Provides uniformity with regard to sunset and reporting features across various economic incentives.
- Creates a single, unified economic incentives report.
- Deletes obsolete credits.



# Renewable Energy



# Renewable Energy Credits

- **Constructing renewable fuel facilities and biodiesel producers** - extended sunset to 2013.
- **Investing in renewable energy property** – amended definitions, expanded to include “combined heat and power equipment,” and allow when cost provided by grants under ARRTA.
- **Constructing renewable energy property facility** - reinstated and expanded.

# Other Renewable Energy Changes

- Clarified local government authority to finance energy programs.
- Clarified that real property donated for conservation purposes may only be used for those purposes.
- Clarified Sec. of Administration is responsible for making allocation of federal 179D deduction.

# Sales Tax Changes

Online Travel  
Companies



Woodchippers



Cities/Cable  
Television System



# Modernize Sales Tax on Accommodations

- Online travel companies will be required to collect sales tax and local occupancy tax on **sales price** of accommodations.
- OTCs will be required within 3 days of completed rental to:
  - Notify retailers of the sales price charged to the consumer.
  - Send the portion of the sales price owed to the retailer and the sales and occupancy tax **on the sales price** that is due.
- Effective 1/1/2011

# Wood Chipper Exemption

A wood chipper that meets all of the following is exempt from sales tax:

- Is designed to be towed by a motor vehicle.
- Is assigned a 17-digit VIN by NHTSA
- Is sold to a person who purchases a MV in this State that is to be registered in another state and who uses the MV to tow the wood chipper to the state where the MV is to be registered.



# Jointly-Operated Cable TV



- Cities that jointly operate a cable television system may obtain a refund of State and local sales and use tax.
- Time limited: only for purchases made between 7/1/2007 to 6/30/2010.
- Request must be made in writing before January 1, 2011.



# Modernize Admissions Tax

- Extends tax to Internet resale of tickets by a person engaged in the business of reselling.
  - Effective January 1, 2011.
- Restores the Department of Revenue's pre-2009 interpretation to exclude from tax charges for amenities bundled with a ticket purchase.
  - Effective August 1, 2010.



# Tax Administration

- Give Taxpayers Notice of Revised Interpretations
- Improve Tax and Debt Collection Process
- Fair Tax Penalties
- Mailbox Rule

# Give Taxpayers Notice of Revised Interpretations

- A revised interpretation that **expands scope** of tax or **increases amount of tax** due may not become effective until the sooner of:
  - For a tax that is payable monthly or quarterly, the first day of a month that is at least 90 days after issuance of revised interpretation.
  - For a tax payable annually, the first day of a tax year that begins after issuance of revised interpretation.

# Improve Tax and Debt Collection Process

- **Expanded Setoff Debt Collection Act**

- Allows setoff against a business entity's tax refund.
- Allows community colleges to submit debts for setoff.
- Allows setoff against any type of tax refund, not just income.

- **Streamlined Garnishment Process**

- Authorizes use of electronic process for sending notices.
- Provides for a data match between the Department of Revenue and financial institutions holding accounts of delinquent taxpayers.

- **Expanded Statewide Accounts Receivable**

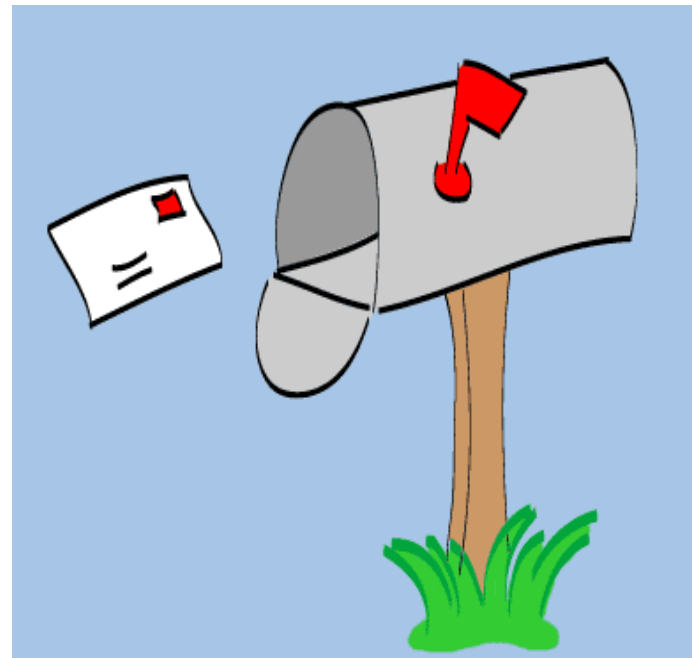
- Allows for collection by setoff against payments the State owes to individuals and businesses of (1) overdue tax debts, and (2) accounts receivable submitted to Dept. of Revenue under the Setoff Debt Collection Act.

# Fair Tax Penalties

- Penalty for understatement of tax does not apply to a taxpayer who complies with Secretary's request to file a consolidated or combined return.
- Failure to pay penalty does not apply to a taxpayer who has requested a hearing on the tax liability used as the basis for the penalty.
- Adds 2 circumstances under which consolidated or combined return required:
  - Permanent rule adopted by the Department of Revenue.
  - Written advice provided by the Secretary upon request of corporation.

# Mailbox Rule

- A return, report, payment, or any other document submitted to the Department of Revenue is considered **filed** when it is **mailed** rather than when it is received.



# Construction of Wills & Trusts

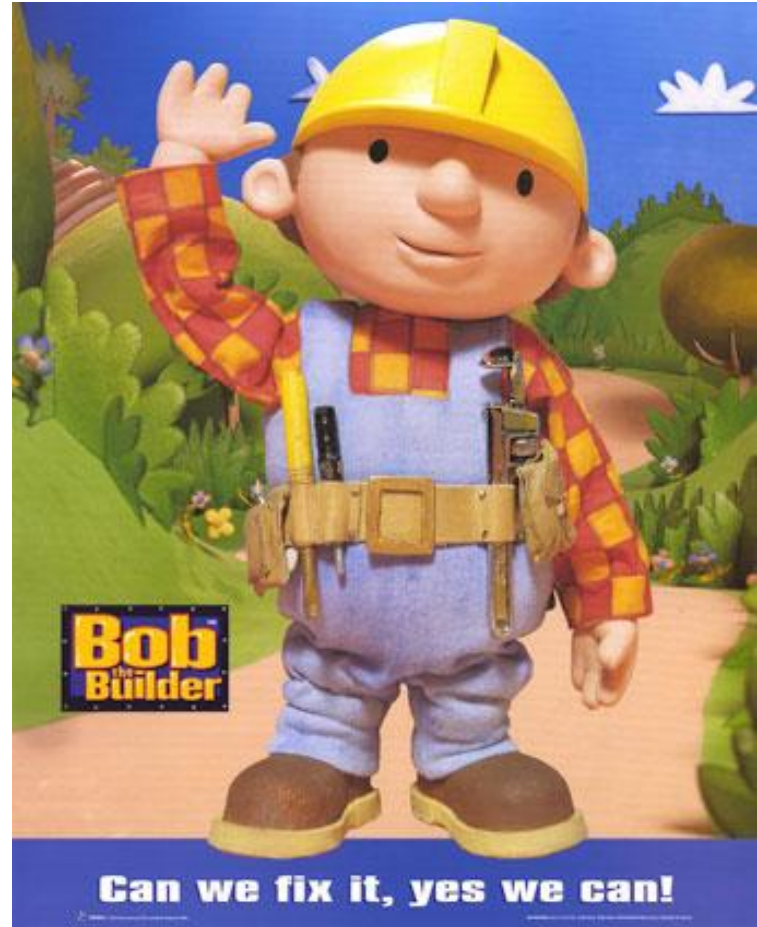
- There is **no federal estate tax** or generation-skipping transfer tax in effect for the year 2010 because Congress took no action prior to sunset.
- There is **no NC estate tax** for the year 2010 because NC estate tax is tied to federal tax.
- This act addresses confusion and ambiguity in formula clauses caused by the repeal by putting people who die in 2010 in the position they would have been if they had died on December 31, 2009.





# Homebuilder Property Tax Deferral Change

- Modification to allow residences constructed by a builder and owned by **either** the builder **or** a business entity of which the builder is a member to qualify for the deferral program.



# 2010 Finance Law Changes

- ◉ Available online: [www.ncleg.net](http://www.ncleg.net)
  - ◉ NCGA website (under “Legislative Publications”)
  - ◉ Revenue Laws website
  - ◉ Legislative Library website
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